

Catawba River TMDL Coalition

Via Email & U.S. Mail

February 26, 2007

Ms. Amy M. Bennett
Standards Coordinator, Bureau of Water
Department of Health and Environmental Control
2600 Bull Street
Columbia, SC 29201

Re: Proposed Amendments to Water Quality Standards

Dear Ms. Bennett:

The Catawba River TMDL Coalition* appreciates this opportunity to comment on DHEC's proposed amendments to the water classifications and standards codified at R.61-68.

The Coalition is active in water quality developments affecting the Catawba River, including the interpretation and application of nutrient criteria for monitoring, permitting and TMDL purposes. As described below, the Coalition believes that DHEC should revisit the numeric criteria for lakes that were adopted in 2001 and revise them in a manner that reflects localized conditions and protects relevant designated uses.

As part of an earlier triennial review (approved by EPA in November 2001), DHEC amended R.61-68 to include numeric criteria for phosphorus, nitrogen and chlorophyll a in various lakes around the state. See R.61-68.e.9. Those criteria were developed using EPA's "Nutrient Criteria Technical Guidance Manual: Lakes and Reservoirs" (EPA 822-D-99-001) and lake data available to DHEC at that time. In its response to comments on these lake criteria, dated December 14, 2000, DHEC suggested that it would adopt numeric nutrient criteria for other types of waterbodies as part of a future triennial review.

The Catawba River TMDL Coalition fears that DHEC's approach to numeric nutrient criteria is overly conservative and will produce unnecessarily restrictive permit limitations and TMDLs. By EPA's own admission, its technical guidance ignores both local conditions and any particular designated uses. In fact, in response to concerns raised by states and other stakeholders, EPA has clarified that its technical guidance should be considered a starting point for developing criteria that reflect waterbody classifications, conditions, trends and uses -- not an ending point.

* The Coalition currently is comprised of Bowater Incorporated, Chester Metropolitan Sewer District, City of Lancaster, City of Rock Hill and Town of Great Falls.



The limitations inherent in EPA's technical guidance are summarized in a report prepared by Dr. Benjamin Parkhurst, entitled *Guidance on Developing Nutrient Criteria for Protecting Designated Uses of Waterbodies*. A copy of this report is attached. We understand that the report has been circulated to states by the Association of State and Interstate Wastewater Pollution Control Agencies and, in turn, may already be in your possession.

Over the past few years, a number of states have rejected or refined the default values set forth in EPA's technical guidance. As an example, Virginia rejected EPA's default values as too "broad brushed" and not adequately connected to relevant designated uses. Virginia's rationale for doing so is set forth in the Commonwealth's Nutrient Criteria Development Plan (approved by EPA in 2003) and in a more detailed *Report of the Academic Advisory Committee to the Virginia Department of Environmental Quality - Freshwater Nutrient Criteria* (July 20, 2004). A copy of this report is also attached.

To develop meaningful alternative criteria, states must do more than simply augment EPA's default values with local data, as DHEC apparently did in 2001. They must evaluate the uses designated for each waterbody, the effects of nutrients on water quality conditions and options to control those effects, where necessary to achieve and maintain specific designated uses.

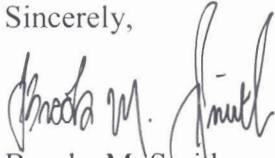
Absent such an evaluation, states are at risk of adopting criteria that undermine the "fishable and swimmable" goals of the Clean Water Act. Unlike some chemical parameters, for which increasingly stringent criteria invariably produce water quality improvements, there is a threshold above which more stringent nutrient criteria actually may harm water quality (because some level of nutrients is necessary to sustain a healthy aquatic ecosystem). In addition, the threshold may vary depending on the designated uses of the waterbody (for example, a river designated as a fishery may have a higher threshold than one designated for primary contact recreation). In order to develop scientifically defensible criteria, states first must define the threshold for the protected use(s) in each waterbody, relying on local data and information. The Parkhurst report provides a step-wise process for developing such criteria.

The Coalition urges DHEC to revisit the lake criteria set forth in R.61-68.e.9, as part of the upcoming triennial review, using the evaluation methods described above and endorsed by EPA and a growing number of states across the country. The Coalition also urges DHEC to defer developing numeric nutrient criteria for other types of waterbodies until it has established scientifically defensible methods and data protective of specific designated uses. Absent a defined and validated correlation between the state's numeric nutrient criteria and the classifications, conditions, trends and uses of particular waterbodies around the state, DHEC should avoid management decisions (e.g., permits or TMDLs) that impose potentially unnecessary restrictions and costs on the regulated community.

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Thank you for the opportunity to submit these comments. Please feel free to contact me (804-787-8086; bsmith@hunton.com) with questions or for additional information.

Sincerely,

A handwritten signature in black ink, appearing to read "Brooks M. Smith". The signature is fluid and cursive, with the first name "Brooks" being more legible than the last name "Smith".

Brooks M. Smith
On behalf of the Catawba River TMDL Coalition

Attachments

cc: Catawba River TMDL Coalition members